

1 MICHAEL F. RAM (SBN 104805)
mram@forthepeople.com
2 MARIÉ N. APPEL (SBN 187483)
mappel@forthepeople.com
3 MORGAN & MORGAN
COMPLEX LITIGATION GROUP
4 711 Van Ness Avenue, Suite 500
San Francisco, California 94102
Telephone: (415) 358-6913
Facsimile: (415) 358-6293

5 RA O. AMEN (pro hac vice)
Ramen@forthepeople.com
6 MORGAN & MORGAN
7 COMPLEX LITIGATION GROUP
8 201 N. Franklin Street, 7th Floor
Tampa, Florida 33602
Telephone: (813) 223-5505
Facsimile: (813) 223-5402

10 STEVEN L. NICHOLAS (pro hac vice)
sln@cunninghambounds.com
11 LUCY E. TUFTS (pro hac vice)
let@cunninghambounds.com
12 CUNNINGHAM BOUNDS, LLC
13 1601 Dauphin Street
Mobile, Alabama 36604
Telephone: (251) 471-6191
Facsimile: (251) 479-1031

14 [Additional Counsel on Signature Page]

15 Attorneys for Plaintiffs and Putative Class

16
17
18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

20 CHRIS SMITH, CHERYL SMITH, KAREN
SMITHSON, FRANK ORTEGA, ALBERTO
21 CORNEA, MICHELLE ROGERS,
DEBORAH CLASS, AMBER JONES,
ALEXIS KEISER, LOORN SAELEE,
22 THOMAS PEAR and TANNAISHA
SMALLWOOD, individually and on behalf of
23 all other similarly situated individuals,

24 Plaintiffs,

25 v.

26 APPLE INC.,

27 Defendant.

28 ERIN M. BOSMAN (CA SBN 204987)
EBosman@mofo.com
MORRISON & FOERSTER LLP
12531 High Bluff Drive Suite 100
San Diego, California 92130-2040
Telephone: 858.720.5100
Facsimile: 858.720.5125

PENELOPE A. PREOVOLOS (CA SBN 87607)
PPreovolos@mofo.com
CLAUDIA M. VETESI (CA SBN 233485)
CVetesi@mofo.com
ALEXIS A. AMEZCUA (CA SBN 247507)
AAmezcu@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

Attorneys for Defendant
APPLE INC.

Case No. 4:21-cv-09527 HSG

**JOINT ADMINISTRATIVE MOTION
TO VACATE CASE SCHEDULE AND
ORDER**

Dept.: Courtroom 2 – 4th Floor
Judge: Hon. Haywood S. Gilliam, Jr.

Second Am. Compl. Filed: March 17, 2023

Pursuant to Civil Local Rule 7-11, Plaintiffs in the above-captioned action *Smith v. Apple, Inc.*, No. 4:21-cv-09527 HSG (N.D. Cal.) and Defendant Apple Inc. (“Apple”), by and through their undersigned counsel, file this joint motion for administrative relief in which Plaintiffs request, and Apple does not oppose, that the Court vacate the deadlines set forth in the February 8, 2023 Amended Scheduling Order (ECF No. 78).

Plaintiffs’ Statement. Plaintiffs have filed a Motion to Modify the Case Management Order and Motion to Amend Pleadings (ECF 116, the “Motion”), which Apple opposes. The briefing on Plaintiffs’ Motion is scheduled to be completed on September 12, 2023 and the hearing on Plaintiffs’ Motion is scheduled for November 16, 2023. The current deadline for the close of fact discovery is September 8, 2023 and the Class Certification Filing deadline is September 22, 2023 – both before Plaintiffs’ Motion is set to be heard. Accordingly, Plaintiffs request that the following deadlines in the Court’s February 8, 2023 Amended Scheduling Order (ECF No. 78) be vacated pending the resolution of Plaintiffs’ Motion:

Event	Current Deadline	Proposed New Deadline
Close of Fact Discovery	September 8, 2023	Vacated pending resolution of Plaintiffs’ Motion
Class Certification Filing Deadline (including expert disclosures and expert reports)	September 22, 2023	Vacated pending resolution of Plaintiffs’ Motion
Opposition to Class Certification (including <i>Daubert</i> motions and expert reports)	November 17, 2023	Vacated pending resolution of Plaintiffs’ Motion
Reply to Class Certification (including <i>Daubert</i> motions and rebuttal expert reports)	December 15, 2023	Vacated pending resolution of Plaintiffs’ Motion
Class Certification Hearing	January 18, 2024 at 2:00 p.m.	Vacated pending resolution of Plaintiffs’ Motion

Apple’s Statement. As discussed in Apple’s Request for a Case Management Conference seeking guidance from the Court on a case schedule (ECF 118), and as Apple will

1 detail in its opposition to Plaintiffs' Motion (which, pursuant to the deadlines set by the Court,
 2 will be filed by September 5, 2023), Apple's position is that amendment of the pleadings at this
 3 late stage is past the deadline and otherwise improper, and that Plaintiffs cannot show good cause
 4 to do so. The parties had previously agreed to seek a four-month case extension to the current
 5 case schedule, before Plaintiffs informed Apple of their intent to seek leave to amend. Apple
 6 believes that the four-month case extension the parties had negotiated would be appropriate
 7 should the case remain governed by the current pleadings. However, because Plaintiffs have now
 8 filed a Motion to Amend Pleadings that is set for hearing on November 16, 2023, and because the
 9 deadlines for the close of fact discovery and Plaintiffs' class certification motion are currently set
 10 for September 8, 2023, and September 22, 2023, respectively, Apple does not oppose Plaintiffs'
 11 request to vacate the current case deadlines while Plaintiffs' Motion is pending.

12

13

14

15

16

Dated: August 24, 2023

MORRISON & FOERSTER LLP

17

18

By: /s/ Claudia M. Vesti
CLAUDIA M. VETESI

19

20

Attorneys for Defendant
APPLE INC.

21

22

Dated: August 24, 2023

CUNNINGHAM BOUNDS, LLC

23

24

By: /s/ Lucy E. Tufts
LUCY E. TUFTS (*pro hac vice*)

25

26

27

28

STEVEN L. NICHOLAS (*pro hac vice*)
sln@cunninghambounds.com
LUCY E. TUFTS (*pro hac vice*)
let@cunninghambounds.com
CUNNINGHAM BOUNDS, LLC
1601 Dauphin Street Mobile, Alabama
36604 Telephone: (251) 471-6191
Facsimile: (251) 479-1031

1 MICHAEL F. RAM (SBN 104805)
2 mram@forthepeople.com
3 MARIE N. APPEL (SBN 187483)
4 mappel@forthepeople.com
5 MORGAN & MORGAN COMPLEX
6 LITIGATION GROUP
7 711 Van Ness Avenue, Suite 500
8 San Francisco, California 94102
9 Telephone: (415) 358-6913
10 Facsimile: (415) 358-6293

11 RA O. AMEN (*pro hac vice*)
12 Ramen@forthepeople.com
13 MORGAN & MORGAN COMPLEX
14 LITIGATION GROUP
15 201 N. Franklin Street, 7th Floor
16 Tampa, Florida 33602
17 Telephone: (813) 223-5505
18 Facsimile: (813) 223-5402

19 BENJAMIN H. KILBORN, JR. (*pro hac*
20 *vice*)
21 benk@kilbornlaw.com
22 KILBORN LAW, LLC
23 P.O. Box 2164
24 Fairhope, Alabama 36533
25 Telephone: (251) 929-4620

26 Attorneys for Plaintiffs
27 Chris Smith, Cheryl Smith, Karen
28 Smithson, Frank Ortega, Alberto Cornea,
Michelle Rogers, Deborah Class, Amber
Jones, Alexis Keiser, Loorn Saelee,
Thomas Pear, and Tannaisha Smallwood

ECF ATTESTATION

I, Lucy E. Tufts, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Claudia Vertesi has concurred in this filing.

Dated: August 24, 2023

CUNNINGHAM BOUNDS, LLC

By: /s/ Lucy E. Tufts
Lucy E. Tufts

Attorneys for Plaintiffs

ORDER

The Court hereby GRANTS the Parties' Administrative Motion. Plaintiffs' unopposed request to vacate the following deadlines pending resolution of Plaintiffs' Motion to Modify Case Management Order and Amend Pleadings (ECF 116) is granted:

1. The September 8, 2023 fact discovery deadline;
2. The September 22, 2023 Class Certification filing deadline;
3. The November 17, 2023 Opposition to Class Certification (including *Daubert* motions and expert reports) filing deadline;
4. The December 15, 2023 Reply to Class Certification (including *Daubert* motions and expert reports) filing deadline; and
5. The January 18, 2024 Class Certification Hearing.

IT IS SO ORDERED.

Dated: 8/24/2023

Haywood S. Gilliam, Jr.
Hon. Haywood S. Gilliam, Jr.
United States District Judge